

Updating Application Information

CHAPTER 5

This chapter describes the regular recertification of schools, as well as changes that can affect a school's participation and how and when to report these changes to the Department on the E-App.

RECERTIFICATION

A school may be certified to participate for up to six years. Recertification is the process through which a school that is presently certified to participate in the FSA programs applies to have its participation extended beyond the expiration date of its current **Program Participation Agreement (PPA)**. The Department will notify a school six months prior to the expiration of the school's PPA. The school must submit a materially complete application before the expiration date listed in its PPA.

If a school that is currently certified submits its materially complete application to the Department no later than 90 calendar days before its PPA expires, its PPA remains valid, and its eligibility to participate in the FSA programs continues until its application is either approved or not approved. This is true even if the Department does not complete its evaluation of the application before the PPA's expiration date. (For example, if a school's PPA expires on June 30 and it submits its application by March 31, the school remains certified during the Department's review period—even if the review period extends beyond June 30.) If the 90th day before the PPA's expiration falls on a weekend or a federal holiday and the school submits its application (E-App) no later than the next business day, the Department considers the application to be submitted 90 days before the PPA expires.

If the school's application is not received at least 90 days before the PPA expires or is not materially complete by that date, the school's PPA will expire on the scheduled expiration date and the FSA program funding will cease. If a school's eligibility lapses, the school may not continue to disburse FSA funds until it receives the Department's notification that the school is again eligible to participate in the programs.

Following submission of an application, the school participation division will contact the school if it has questions about the application. Generally, this will be within 90 days of the Department receiving an application. If a school's application has been approved, the Department will send an electronic notice to the president and financial aid officer notifying them that the school's PPA is available to print, review, sign, and return. If the school's application is not approved, ED will notify the school and explain why.

FSA Assessment modules

To assess your compliance with the provisions of this chapter see "Recertification," at (www.ifap.ed.gov/qahome/qaassessments/institutionalelig.html).

Recertification

Sec 498(g) and (h) of the HEA
34 CFR 600.20(b) and (f)

Eligible nonparticipating school

Nonparticipating eligible schools are only required to renew their eligibility when the Department requests it. Their eligibility status continues indefinitely as long as they continue to meet the institutional eligibility requirements. If a school wants to be certified to participate in the FSA programs, it must submit an application and supporting documentation (see *Chapter 1*).
34 CFR 600.20(b)(1)

CHANGE IN OWNERSHIP

Changes at public institutions

Changes in ownership

Sec. 498(i) of the HEA

34 CFR 600.31

Family defined

34 CFR 600.21(f)

Excluded Transactions

34 CFR 600.31(e)(1) and (2)

Change in ownership—publicly traded corporation

34 CFR 600.31(c)(2)

Electronic submission required

Changes to previous applications, including changes in ownership, reporting, expanding eligibility, and certification, must be submitted to the Department through the E-App at (<http://www.eligcert.ed.gov>).

Mailing address for supporting documents

U.S. Department of Education
Federal Student Aid
School Eligibility Service Group
830 First Street, NE
Washington, DC 20002-5403

Contact: caseteams@ed.gov
Phone (to verify receipt only):
202-377-3161

Partnership or sole proprietorship

A change in ownership and control occurs when a person who has or acquires an ownership interest acquires or loses control as described in this section.

Parent corporation

An institution that is a wholly-owned subsidiary changes ownership and control when the parent corporation changes ownership and control as described in this section.

The Department does not consider that a public institution has undergone a change in ownership that results in a change of control if there is a change in governance, and the institution after the change remains a public institution, provided

- ♦ the new governing authority is in the same state as included in the institution's program participation agreement; and
- ♦ the new governing authority has acknowledged the public institution's continued responsibilities under its PPA.

Within 10 days of undergoing a change in governance, however, a public institution must report that change to the Department. The institution must also explicitly acknowledge its continued responsibilities under its PPA. If the documentation transferring control of a public institution to another in-state entity does not specifically acknowledge the aforementioned responsibilities, the institution must acknowledge them in a separate letter or notice.

Change in ownership that results in a change of control, structure, or governance

A change in ownership and control occurs when a person or corporation obtains new authority to control a school's actions, whether the school is a proprietorship, partnership, or corporation. A change in ownership that results in a change in control includes any change through which a person or corporation

- ♦ acquires an ownership interest in the entity that owns the school or the parent corporation of that entity, or
- ♦ who owns or acquires an ownership interest attains or loses the ability to control the school.

The most common example of this change in controlling interest is when the school is sold to a new owner. Other kinds of “covered transactions” include

- ♦ the transfer of the controlling interest of stock of the school or its parent corporation;
- ♦ the merger of two or more eligible schools;
- ♦ the division of one school into two or more schools;
- ♦ the transfer of the liabilities of a school to its parent corporation;
- ♦ a transfer of assets that comprise a substantial portion of the educational business of the school, except if it is exclusively in the granting of a security interest in those assets; or
- ♦ a conversion of the school from a for-profit to a nonprofit school or a nonprofit to a for-profit.

Change in ownership for closely held corporations

A *closely held corporation* (including the term *close corporation*) is

- ♦ a corporation that qualifies under the law of the state of its incorporation as a closely held corporation; or
- ♦ if the state of incorporation has no definition of closely held corporation, a corporation whose stock is held by no more than 30 persons and has not been and is not planned to be publicly offered.

For a closely held corporation, a change in ownership and control occurs when

- ♦ a person acquires more than 50% of the total outstanding voting stock of the corporation;
- ♦ a person who holds an ownership interest in the corporation acquires control of more than 50% of the outstanding voting stock of the corporation; or
- ♦ a person who holds or controls 50% or more of the total outstanding stock of the corporation ceases to hold or control that proportion of the stock of the corporation.

Excluded transactions—transfers to family members

Changes of ownership do not include a transfer of ownership and control to a member of the owner’s family (whether or not the family member works at the school) that includes:

- parent, stepparent, sibling, step-sibling, spouse, child or stepchild, grandchild or step-grandchild;
- spouse’s parent or stepparent, sibling, step-sibling, child or stepchild, or grandchild or step-grandchild;
- child’s spouse; and
- sibling’s spouse.

Nor does it include a transfer of ownership and control, upon the retirement or death of the owner, to a person (who is not a family member) with an ownership interest in the school who has been involved in management of the school for at least two years preceding the transfer and who has established and retained the ownership interest for at least two years prior to the transfer.

These are known as excluded transactions, and they apply only to the transfer of the entire portion of the owner’s interest.

34 CFR 600.21(f)

34 CFR 600.31(e)

Training requirement after a change in ownership or control

If a school undergoes a change in ownership, the school’s chief financial aid administrator and its chief administrator (or a high-level school official designated by the chief administrator) must attend *Fundamentals of Title IV Training*.

If the financial aid administrator and/or the chief administrator have not changed, the school may request a waiver of the training requirement from its school participation division. ED may grant or deny the waiver for the required individual, require another official to take the training, or require alternative training.

Default management plan after change in ownership or status

A school that changes ownership or changes its status as a parent or subordinate institution must adopt the Sample Default Prevention Plan or develop its own default management plan that is approved by the Department. The school must implement the plan for at least two years.

A school is exempt from submitting a default management plan if

- the parent school and the subordinate school both have a cohort default rate of 10% or less, and
- the new owner of the parent or subordinate school does not own, and has not owned, any other school with a cohort default rate over 10%.

Change in ownership for publicly traded corporations

For *publicly traded corporations*, a change in ownership and control occurs when

- ♦ a person acquires ownership and control of the corporation such that the corporation is required to file a Form 8K with the Securities and Exchange Commission notifying that agency of the change in control; or
- ♦ a person who is a controlling shareholder of the corporation ceases to be a controlling shareholder.

A controlling shareholder is a shareholder who holds or controls through agreement *both* 25% or more of the total outstanding voting stock of the corporation and more shares of voting stock than any other shareholder. A controlling shareholder for this purpose does not include a shareholder whose sole stock ownership is held as a U.S. institutional investor, held in mutual funds, held through a profit-sharing plan, or held in an Employee Stock Ownership Plan.

For a publicly traded corporation, when a change of ownership occurs, instead of a same-day balance sheet, the school may submit its most recent quarterly financial statement as filed with the Securities and Exchange Commission (SEC). Together with its quarterly financial statement, the school must submit copies of all other SEC filings made after the close of the fiscal year for which a compliance audit has been submitted to ED.

Consider a publicly traded school that is provisionally certified because of a change in ownership that experiences another change of ownership. If any controlling shareholder on the newer change of ownership application was listed on the ownership application for which the provisional approval was granted, the expiration date for the original provisional certification remains unchanged if the newer application is approved.

Change in ownership for corporations that are not closely held or registered with the SEC

A change in ownership and control of a corporation that is neither closely held nor required to be registered with the SEC occurs when a person who has or acquires an ownership interest acquires both control of at least 25% of the total outstanding voting stock of the corporation and managing control of the corporation.

Preacquisition review

Schools may submit an E-App marked “preacquisition review” before a change in ownership takes place. The purpose of this review is to determine whether the school has answered all the questions completely and accurately. A preacquisition review application must be submitted at least 45 days prior to the expected date of the transaction.

The SPD will notify the school of the results of the review. However, the school will not be given a decision whether or not its application would be approved as a result of this preacquisition review. Please note that a preacquisition review is not required; it is an option.

If the potential owner decides not to purchase the school, he or she must notify the school participation division of the decision to withdraw the application.

If the potential owner considering the change in ownership decides to go through with the purchase and wants to participate in the FSA programs, he or she must

- notify the Department within 10 days of the date the change in ownership actually took place (if this date falls on a weekend or a federal holiday, the notification may be no later than the next business day); and
- submit the supporting documents required for a materially complete application. (Refer to section “M” of the E-App for the list of specific forms to submit.)

CHANGES IN OWNERSHIP INTEREST AND 25% THRESHOLD

Ownership or ownership interest means a legal or beneficial interest in a school or its corporate parent or a right to share in the profits derived from the operation of a school or its corporate parent. The school must report any change in ownership interests whenever

- ♦ an owner acquires a total interest of 25% or greater;
- ♦ an owner who held a 25% or greater interest reduces his or her interest to less than 25%; or
- ♦ an owner of a 25% or greater interest increases or reduces his or her interest but remains the holder of at least a 25% ownership interest.

Because of these reporting requirements, even though transferring ownership interest through death or retirement may be excluded from being considered a change in ownership resulting in a change of control, the resulting change in percentages of ownership interests must be reported to the Department.

25% Threshold

34 CFR 600.31(c)(2)(ii)(A)

Ownership interest

Ownership or ownership interest does not include an ownership interest held by:

1. a mutual fund that is regularly and publicly traded;
2. a U.S. institutional investor as defined by the Securities and Exchange Commission;
3. a profit-sharing plan of the school or its corporate parent (provided that all full-time permanent employees of the school or corporate parent are included in the plan); or
4. an Employee Stock Ownership Plan (ESOP).

A school must report any changes that result in an individual or owner (including a corporation or unincorporated business entity) acquiring the ability to substantially affect the actions of the school. Such a change must be reported within 10 days of the change. A school owned by a publicly traded corporation must report the change within 10 days after the corporation learns of the change. Adherence to these requirements is enforced during the institutional participation approval process, program reviews, and audit process. All schools are bound by these reporting requirements, and substantial penalties may be imposed on schools that fail to comply with them.

An individual or corporation has the ability to substantially affect the school's actions when he, she, or it

- ♦ personally holds, or holds in partnership with one or more family members, at least a 25% ownership interest in the school;
- ♦ personally represents (with voting trust, power of attorney, or proxy authority), or represents in partnership with one or more family members, any individual or group holding at least a 25% ownership interest in the school;
- ♦ is the school's general partner, chief executive officer (or other executive officer), chief financial officer, individual designated as the lead program administrator for the FSA programs at the school, or a member of the school's board of directors; or
- ♦ is the chief executive officer (or other officer) for any entity that holds at least a 25% ownership interest in the school or is a member of the board of directors for such an entity.

To ensure that its FSA program participation isn't jeopardized, a school must report to the Department an ownership change (including the names of persons involved). On receiving the notification, the Department will investigate and notify the school whether a change in ownership resulting in a change of control has occurred that will require the school to submit a materially complete application.

STEPS TO BE TAKEN DURING A CHANGE IN OWNERSHIP

Steps to be taken by former owners

If a school is changing control, the former owners must notify the Department about the change and the date it occurs, and provide any supporting information the Department requests. This must be at the same time that the owner notifies the school's accrediting agency but no later than 10 days after the change occurs. (If the former owner fails to notify the Department, the prospective owner is responsible for doing so.) The current owner also must notify the state agency that licenses or approves the school.

Steps to be taken by prospective owners

The prospective owner should ask the former owner for copies of the school's Eligibility and Certification Approval Report (ECAR), refund policy, return of FSA funds policy, any required default management plan, program reviews, audited financial statements (for at least the two most recently completed fiscal years), and compliance audits. The prospective owner will need this information to receive approval to participate.

Accompanying the application must be audited financial statements for the school's two most recently completed fiscal years (if the school has not yet submitted statements for those years), an audited balance sheet showing the financial condition of the school at the time of the change, and a default management plan (if required). Each participating school must demonstrate financial responsibility independently. If the entity that has acquired the school is an ongoing entity (partnership or corporation), the school must also submit completed audited financial statements of the acquiring entity for the last two consecutive fiscal years. For information on financial responsibility and submitting audited financial statements see *Chapter 4*.

The school also must submit proof that its accreditation is continued under the new ownership or control, along with a photocopy of its state legal authorization under the new ownership.

The school may not award FSA program funds until it receives a new PPA signed on behalf of the Secretary.

Audits and closeout procedures

Although a separate financial aid compliance audit is not required when there is a change in ownership, structure, or governance, the prospective owner may choose to have the accounts audited before they are closed out. Questions about FSA accounts or closeout procedures should be addressed to the appropriate school participation division.

Accepting liabilities and responsibility for return of funds

If new owners acquire a school or if a school is the result of the merger of two or more schools that formerly were operating separately, the new owner is liable for any debts that accrued from the former owner's FSA program administration. A new owner accepts liability for any federal funds that were given to the school but that were improperly spent before the date the change in ownership, structure, or governance became effective. A new owner must also abide by the school's refund and the FSA Return of Funds policy for students enrolled before the date the change became effective, and must honor all student enrollment contracts signed before the date of the change.

Payments to eligible students

Before the change in ownership, structure, or governance takes place, the former owner should make sure that all students receive any FSA payments already due them for the current payment period and that all records are current and comply with federal regulations. If the school needs additional funds for its students for the current payment period, it should request them and disburse them to all eligible students before the change takes place.

The school loses its approval to participate in the FSA programs when the change takes place. Generally, a school may

- ♦ use Pell or TEACH Grant or Campus-Based funds that it has received or request additional Pell Grant or Campus-Based funds from the Department to satisfy any unpaid commitment made to a student from the date the school's participation ended until the scheduled completion date of the payment period; and
- ♦ credit a student's account with the proceeds of a second or subsequent disbursement of a Direct Loan to satisfy any unpaid commitment made to the student under the Direct Loan Program from the date participation ends until the scheduled completion of that period of enrollment. (The proceeds of the first disbursement of the loan must have been delivered to the student or credited to the student's account prior to the end of the participation.)

The school must notify all new students that no federal aid funds can be disbursed until the school's eligibility is established and a new PPA signed by the Department is received.

Beginning on the date that the change becomes effective, the school may no longer award FSA funds. If the school's prospective owners wish the school to participate in one or more of the FSA programs, the school must submit a materially complete application to the Department.

The school can apply for preacquisition review (described in the previous section) and temporary provisional approval after the change in ownership (described in the next section).

TEMPORARY APPROVAL FOR CONTINUED PARTICIPATION

The Department, at its discretion, may permit a school undergoing a change in ownership that results in a change in control to continue to participate in the FSA programs on a provisional basis if the school meets the following specific requirement.

The school must submit a materially complete application that must be received by the Department no later than 10 business days after the change becomes effective. A materially complete application for the purpose of applying for a temporary approval must include

- ◆ a completed application form;
- ◆ a copy of the school's state license or equivalent that was in effect on the day before the change in ownership took place;
- ◆ a copy of the accrediting agency's approval (in effect on the day before the change in ownership) that granted the school accreditation status including an approval of the nondegree programs it offers;
- ◆ financial statements of the school's two most recently completed fiscal years that are prepared and audited in accordance with the requirements of the generally accepted accounting principles (GAAP), published by the Financial Accounting Standards Board, and the generally accepted governmental auditing standards (GAGAS) published by the U.S. General Accounting Office (submitted via eZ-Audit at www.ezaudit.ed.gov);
- ◆ audited financial statements for the school's new owner's two most recently completed fiscal years that are prepared and audited in accordance with GAAP and GAGAS, or acceptable equivalent information for that owner (submitted via eZ-Audit at www.ezaudit.ed.gov); and
- a completed signature page, Section L.

Temporary approval

Temporary approval
Sec. 498(i)(4) of the HEA
34 CFR 600.20(g) and (h)
Audits
34 CFR 668.23

If the application is approved, the school participation division will send the school a Temporary Provisional Program Participation Agreement (Temporary PPA). The Temporary PPA extends the terms and conditions of the PPA that were in effect for the school before its change of ownership.

The Temporary PPA expires on the earliest of the

- ♦ date that the Department signs a new program participation agreement;
- ♦ date that the Department notifies the school that its application is denied; or
- ♦ last day of the month following the month in which the change of ownership occurred unless the school provides the necessary documents described as follows.

The Department can automatically extend the Temporary PPA on a month-to-month extension if, prior to the expiration date, the school submits

- ♦ a same day balance sheet showing the school's financial position on the day the ownership changed, prepared in accordance with GAAP and audited in accordance with GAGAS;
- ♦ approval of the change of ownership from the school's state agency that legally authorizes postsecondary education in that state (if not already provided);
- ♦ approval of the change of ownership from the school's accrediting agency (if not already provided); and
- ♦ a default management plan that follows examples provided by the Department or notification that it is using the Department's plan or is exempt from providing a plan.

REPORTING SUBSTANTIVE CHANGES

A school is required to report changes to certain information on its approved application, as listed on the following pages. A school may also wish to expand its FSA eligibility and certification. Some of these changes require the Department's written approval before the school may disburse the FSA program funds; others do not.

If a change occurs in an E-App item not listed on the following pages, the school must update the information when it applies for recertification.

When the Department is notified of a change, if further action is needed, it will tell the school how to proceed, including what materials and what additional completed sections of the E-App need to be submitted. If a school has questions about changes and procedures, it should contact its school participation division.

After receiving the required materials (and depending on the circumstances), the Department will evaluate the changes, approve or deny them, and notify the school.

Approval required from accreditor and state agency

For a change requiring written approval from the Department (unless otherwise noted) and for some changes that do not require written approval from the Department, a school must obtain approval from the appropriate accrediting agency and state authorizing agency.

Notification of school closure or bankruptcy

If a school closes or files for bankruptcy, the school must notify the Department within 10 calendar days of either event by sending a letter on the school's letterhead that indicates the date the school closed or plans to close, or the date the school filed for bankruptcy, as appropriate.

CHANGES TO LOCATION, BRANCH, OR CAMPUS

Teach-outs at closed school locations

A school that conducts a teach-out at a site of a closed school may apply to have that site approved as an additional location if the closed school ceased operations and the Department has taken a limitation, suspension, termination, or emergency action, regardless of whether the Department took that action before or after the school closed. The teach-out must be approved by the school's accrediting agency.

The school that conducts the teach-out may establish a permanent additional location at the closed school without having to satisfy the 2-year requirement and without assuming the liabilities and cohort default rate of the closed institution, provided the schools are not commonly owned or managed.

See 34 CFR 600.32(d), as amended on October 29, 2009, for further details.
HEOA 2008, §496, HEA §498
Effective date: August 14, 2008

Notifying ED if school exceeds limitations on types of students

If there is a change to any of a school's answers to the Yes/No questions in Section G of a submitted application (limitations on students who are enrolled without a high school diploma or equivalent, incarcerated students, and correspondence study), the school must notify ED via the E-App. ED will advise the school of its options, including whether the school might be eligible for a waiver. (See *Chapter 4* for additional information.)

The ECAR that the Department sends to the school lists the educational programs and locations that are eligible. (The eligibility of a school and its programs does not automatically include separate locations and extensions.) If, after receipt of the ECAR, a school wishes to add a location at which at least 50% of an educational program is offered, it must notify the Department.

Eligibility of additional locations

For purposes of qualifying as an eligible location, an additional location is not required to satisfy the two-year requirement unless

- ♦ the location was a facility of another school that has closed or ceased to provide educational programs for a reason other than a normal vacation period or a natural disaster that directly affects the school or the school's students;
- ♦ the applicant school acquired, either directly from the school that closed or ceased to provide educational programs, or through an intermediary, the assets at the location; and
- ♦ the school from which the applicant school acquired the assets of the location is not making payments in accordance with an agreement to repay a liability for a violation of FSA program requirements.

An additional location that falls into one of the aforementioned categories is not required to satisfy the two-year rule (see *Chapter 1*) if the applicant school agrees:

- ♦ to be liable for all improperly expended or unspent FSA funds received by the school that has closed or ceased to provide educational programs,
- ♦ to be liable for all unpaid refunds owed to students who received FSA funds, and
- ♦ to abide by the policy of the school that has closed or ceased to provide educational programs regarding refunds of institutional charges to students in effect before the date of the acquisition of the assets of the additional location for the students who were enrolled before that date.

Each site must be legally authorized. To apply for eligibility for an added location, the school must submit an E-App to the Department with the required application sections completed, a copy of the accrediting agency's notice certifying that the new location is included in the school's accredited status, and a copy of the state legal authorization from the state in which the additional site is physically located.

Reporting a new location

All schools are required to report (using the E-App) to the Department when adding an additional accredited and licensed location where they will be offering 50% or more of an eligible program if the school wants to disburse FSA program funds to students enrolled at that location.

Schools must not disburse FSA program funds to students at a new location before the school has reported that location and submitted any required supporting documents to the Department. Once it has reported a new licensed **and** accredited location, unless it is a school that is required to apply for approval for a new location (see below), a school may disburse FSA program funds to students enrolled at that location.

Applying for approval of a new location

If a school meets one or more of the following criteria, it must apply for *and wait for approval* before disbursing FSA funds at an additional location where it will be offering 50% or more of an eligible program:

- ◆ The school is provisionally certified.
- ◆ The school is on the cash monitoring or reimbursement system of payment.
- ◆ The school has acquired the assets of another school that provided educational programs at that location during the preceding year, and the other school participated in the FSA programs during that year.
- ◆ The school would be subject to a loss of eligibility under the cohort default rate regulations if it adds that location.
- ◆ The school was previously notified by the Department that it must apply for approval of an additional location.

The Department will review the information and will evaluate the school's financial responsibility, administrative capability, and eligibility. Depending upon the circumstances, the Department may conduct an on-site review. If it approves the additional location, a revised ECAR and Approval Letter will be issued. The location is eligible as of the date of the Department's determination.

Regulations

Reporting

34 CFR 600.21

Approval required

34 CFR 600.20(c)(1)

Disbursing prohibited

34 CFR 600.20(f)(3)

34 CFR 600.21(d)

Electronic submission required

Changes to previous applications, including changes in ownership, reporting, expanding eligibility, and certification, must be submitted to the Department through the E-App (www.eligcert.ed.gov).

Liability for disbursements if change not approved

If a school does not obtain ED approval for a new location, branch, program, or increase in program offering, the school is liable for all FSA funds it disburses to students enrolled at that location or branch or in that program.

Effects of closure of branch or additional location

A school that is considering adding a branch or an additional location should include in its deliberations the effect that a closure of a branch or additional location might have on the school's financial condition.

If a branch or additional location of an institution closes and borrowers who attended the school obtain loan discharges by reason of the closure of the branch or location (or improper loan certifications), the Department will pursue recovery against the larger institution, its affiliates, and its principals.

HEA 437(c)(1)

Reporting self-determined programs on the E-App

Institutions are encouraged to report programs for which they have made a self-determination, at either recertification or sooner. The eligibility of these programs will be reviewed prior to the program being added to the ECAR as an eligible program.

34 CFR 600.20 (c)(3), 600.10 (c)

Consequences of erroneous self-determination

If the school's self-determination of eligibility for an educational program is found to be incorrect, the school is liable for all FSA program funds received for the program and all FSA program funds received by or for students enrolled in that program.

Changing the status of a campus or branch

If a school wishes to seek approval for a branch campus, the school must submit a completed application with the required supplemental documentation (see the following list) on (1) the main campus and (2) the proposed branch campus.

A branch campus of an eligible proprietary institution of higher education or postsecondary vocational school must be in existence for at least two years (after it is certified in writing by the Department as a branch campus) before seeking to be designated as a main campus or a freestanding school.

CHANGES TO EDUCATIONAL PROGRAMS

Clarification

Adding a program—when a school may make eligibility determinations

After a school has received an ECAR, the school may add an educational program and determine the program's eligibility unless

- ♦ the school has been provisionally certified,
- ♦ the school is receiving funds under heightened cash management,
- ♦ progress in the program is measured by direct assessment,
- ♦ the school is subject to the two-year rule,
- ♦ the program is a comprehensive transition and postsecondary program, or
- ♦ the Department has informed the school that it must request approval before adding additional programs.

Before the school may determine these programs to be eligible and disburse funds to enrolled students, the school must have received both the required state and accrediting agency approvals. The school must include any "self-certified" programs on its next recertification application, and provide copies of the state and accreditor approvals. For new GE programs, the school must update the ECAR within 10 days of the school receiving final approval from its accreditation agency, governing authority, and other oversight bodies to make the change.

All other program additions must be reported to the Department and approved before FSA program funds can be awarded.

Clarification

Within 10 days of the school receiving final approval from its accreditation agency, governing authority, and other oversight bodies to add the program, the school must submit an E-App with the appropriate sections completed and copies of the approval of the new program from its accrediting agency and state authorizing agency. The Department will evaluate the new program and the school addition of that program. If the Department approves the school adding the additional program, the Department will issue a revised ECAR and Approval Letter and send them to the school. For more on program eligibility, see *Chapter 2*.

Updating a program

The school must update information about its educational programs when completing its recertification application. This includes updating CIP codes, program names, and program lengths. A school must update its E-App with changes to GE programs within 10 days of making the change. Schools should note that making a substantive change to a program may result in the creation of a new program.

Gainful employment programs

"Gainful employment" refers to certain programs offered at public, private nonprofit, and proprietary institutions, as defined in *Chapter 2*.

CIP codes

Classification of Instructional Programs (CIP) codes are developed by the U.S. Department of Education's National Center for Education Statistics.

(<http://nces.ed.gov/ipeds/cipcode>)

Approval for clock-hour programs at proprietary schools

If a proprietary school submitting an E-App is in provisional status, any new program needs to have been continuously provided for at least two (2) years prior to the application date, or it can not be approved until the school reaches the two year mark.

Short-term programs at all institutions must have been continuously provided for twelve months to be considered for approval.

Limitations for schools subject to "2-year rule"

For schools subject to the 2-year rule (see *Chapter 1*), during the school's initial period of participation in the FSA programs, the Department will not approve adding programs that would expand the school's eligibility beyond the current ECAR. An exception may be considered if the school can demonstrate that the program was legally authorized and continuously provided for at least two years prior to the date of the request.

In addition, a school subject to the 2-year rule may not award FSA funds to a student in a program that is not included in the school's approval documents.

CHANGES IN ACCREDITATION

Changing accrediting agencies

34 CFR 600.11

A school must notify the Department if the school changes its institution-wide accreditation (primary accrediting agency), or decides to seek institution-wide accreditation by an additional agency.

Change in institution-wide accreditation

If the school decides to change its institution-wide accreditation (*primary accrediting agency*), it must notify the Department when it begins the accreditation application process with a different agency. (Note that it must also notify the Department when it completes the process.) As part of the notice, the school must submit materials about its current accreditation and materials demonstrating reasonable cause for changing accreditation. If the school fails to notify the Department of the proposed change to its institution-wide accreditation, or if the school does not provide the materials just described, the Department will not recognize the school's existing accreditation. If this happens, or if the school drops its association with its former accreditor before obtaining Department approval of the change, the school would no longer have accredited status and would no longer be eligible to award FSA funds.

Therefore, when a school secures new institution-wide accreditation, it must notify the Department using the online electronic application (E-App). At that time, it must advise the Department which accrediting agency will be its accreditor for purposes of FSA gatekeeping. Only after the Department provides written notice that it recognizes the new accreditor as the institution's primary accreditor should the school drop its association with its prior accreditor.

Changing to accreditation by more than one institution-wide accrediting agency

If the school decides to become accredited by more than one institution-wide accrediting agency, it must notify the Department when it begins the process of obtaining additional accreditation.

As part of the notice, the school must report (in question 15 of the E-App) its current institution-wide accrediting agency, the prospective institution-wide accrediting agency, and the reason (in question 69 of the E-App) it wishes to be accredited by more than one agency. If the school obtains the additional institution-wide accreditation and fails to notify the Department of the reason for the additional accreditation, the Department will not recognize the school's accredited status with either agency. This means the school would lose its accredited status and its eligibility to award FSA funds.

If a school becomes accredited by more than one agency, it must notify its school participation division of which agency's accreditation the school will use for determining its eligibility for the FSA programs.

Loss of accreditation

If a school loses its primary accreditation, it is ineligible to participate in the FSA programs and must notify the Department within 10 days of the loss of accreditation. (For any dispute involving the termination of accreditation, an accredited or preaccredited school must agree to submit to binding arbitration before initiating any other legal action.) However, if a school's accrediting agency loses its recognition from the Department, the school has up to 18 months in which to obtain accreditation from another recognized agency. Other changes in accreditation may also jeopardize institutional participation.

CHANGES TO THIRD-PARTY SERVICERS

Schools are required to notify the Department of all third-party servicer contracts. If a school has submitted information regarding its third-party servicers as part of applying for certification or recertification, no additional submission is required.

The school must promptly notify the Department of any of the following changes to servicer arrangements:

- ♦ the school enters into a contract with a new third-party servicer,
- ♦ the school significantly modifies a contract with an existing third-party servicer,
- ♦ the school or one of its third-party servicers terminates a contract, or
- ♦ a third-party servicer ceases to provide contracted services, goes out of business, or files for bankruptcy.

A school notifies the Department by updating Section J of the E-App within 10 days of the date of the change or action. This notification must include the name and address of the servicer and the nature of the change or action.

A school is only required to submit a copy of its contract with a third-party servicer if the Department requests it. A school is not required to submit the contract as part of the recertification process. (See *Chapter 3* for more information about contracts with third-party servicers.)

Changes Requiring Written Approval From the Department

All schools must report and wait for written approval from the U.S. Department of Education before disbursing funds when the following occur:

1. a change in accrediting agency (notify the Department when you begin making any change that deals with your school's institution-wide accreditation);
2. a change in state authorizing agency;
3. a change in institutional structure;
4. an increase in the level of educational programs (e.g. associate degree to baccalaureate degree programs, baccalaureate degree to graduate degree programs, etc.) beyond the scope of current approval;
5. the addition of short-term (300–599 clock-hour) programs;
6. the addition of direct assessment programs or comprehensive transition and postsecondary programs;
7. changes to the FSA programs (Pell Grants, Direct Loans, etc.) for which the school is approved* (Approvals from your accrediting agency and state authorizing agency are not required for this change.);
8. a change in the type of ownership;
9. a change in ownership;
10. the addition of an accredited and licensed location if the institution would be subject to a loss of eligibility under the cohort default rate regulations (34 CFR 668.188) if it adds that location;
11. the addition of an educational program or a location at which the school offers or will offer 50 percent or more of an educational program if a school
 - a) is provisionally certified; or
 - b) is on the cash monitoring or reimbursement system of payment; or
 - c) has acquired the assets of another school that provided educational programs at that location during the preceding year, and the other school participated in the FSA programs during that year; or
 - d) has been advised by the Department that the Department must approve any new location or program before the school may begin disbursing FSA funds.

When one of the changes that requires the Department's written approval occurs, a school must notify the Department. The school must apply to the Department for approval of the change via the E-App within 10 calendar days of the change (in the case of a change in ownership, 10 *business* days). As soon as the school has received approvals for the change from its accrediting agency and state authorizing agency, it must send to the Department:

- copies of the approval for the change,
- any required documentation, and
- Section L of the E-App containing the original signature of the appropriate person

* For TEACH Grants, select "Add TEACH Grants" and then use question 69 to explain the eligibility criteria that your school meets for TEACH participation. See DCL GEN 08-07.

Changes That Do Not Require the Department's Written Approval

Though they need not wait for the Department's approval before disbursing funds, all schools must **report** the following information to the Department.

1. change to name of the school;*
2. change to the name of a CEO, president, or chancellor;
3. change to the name of the chief fiscal officer or chief financial officer;
4. change in the individual designated as the lead program administrator (financial aid administrator) for the FSA programs;
5. change in governance of a public institution;
6. a decrease in the level of program offering (e.g., the school drops all its graduate programs);
7. change from or to clock hours or credit hours;
8. change in the length of a program in credit/clock hours or weeks of instruction;
9. address change for a principal location;*
10. name or address change for other locations;*
11. the closure of a branch campus or additional location that the school was required to report;
12. the addition of an accredited and licensed location under certain conditions (34 CFR 600.20(c)(1));
13. change to the school's third-party servicers that deal with the FSA program funds;
14. changes related to GE programs, including—
 - a) Establishing the eligibility or reestablishing the eligibility of the program,
 - b) Discontinuing the program's eligibility as a result of debt-to-earnings rates,
 - c) Ceasing to provide the program for at least 12 consecutive months,
 - d) Losing program eligibility,
 - e) Changing the program's name, CIP code, or credential level,
 - f) Updating the certification pursuant to 668.414(b);

When one of these changes occurs, a school must notify the Department by reporting the change and the date of the change to the Department via the E-App within 10 calendar days of the change. In addition, a school must mail to the School Eligibility Service Group (see the address on the second page of this chapter):

- any required supporting documentation, and
- Section L of the E-App containing the original signature of the appropriate person.

* For programmatic changes that only require the school to notify the Department, that notification must be provided at least 10 days before the first day the school intends to offer classes in the program.

Foreign School Reporting on the E-App

In addition to—or, where appropriate, instead of—the information listed above, a foreign school must report changes to its postsecondary authorization, degree authorization, program equivalence, program criteria, or to its U.S. administrative or recruiting office.

A foreign medical school must report changes to the facility at which it provides instruction, its authorizing entity, the approval of its authorizing entity, the length of its program, or the clinical or medical instruction that it provides in the U.S. It must report and wait for approval of an added location that offers all or a portion of the core clinical training or required clinical rotations unless the location is accredited by the Liaison Committee on Medical Education (LCME) or American Osteopathic Association (AOA). A foreign medical school must report, but is not required to wait for approval of, an added location that offers all or a portion of the clinical rotations that are not required; reporting of such a location is not required if the location is accredited by the LCME or AOA or if it is not used regularly but is chosen by students who take no more than two electives at the location for no more than a total of eight weeks.

A foreign veterinary school must report changes to the clinical instruction that it provides in the United States.

Other Changes Reported on the E-App

- Change to address for FSA mailings to an address different than the legal street address
- Change to address for FSA mailings to an additional location that is different than the legal street address
- Change of taxpayer identification number (TIN)
- Change of DUNS number
- Change in board members
- Reporting foreign gifts (see *Chapter 12*)
- Change to institution's website address
- Change of phone/fax/email of CEO, president, or chancellor
- Change of phone/fax/email of CFO
- Change of phone/fax/email of financial aid administrator

Documentation Required for Approval of a Branch Campus

The following required supplemental documentation must be submitted for the school participation division to make a determination as to whether a non-main campus educational site is an eligible branch campus:

- A statement listing the distance between the main institution and the applicant non-main campus educational site.
- State authorization of the quasi-independent status of the non-main campus educational site from the main institution in any of the following forms: applicable state law, state charter, university system organization document, or state department of education or state board or regents' regulations or documentation.
- State authorization (in any of the four forms above) for the non-main educational site to have its own faculty and administrative staff, its own operating budget, and its own authority to hire and fire faculty and staff.
- An official statement from the school describing the hiring authority of the non-main educational site.
- A statement from the main institution's primary accrediting agency indicating that it has accredited both the main institution and the non-main educational site through separate on-site visitations and that the non-main educational site's accreditation is distinct yet dependent upon the main institution.
- A specific description of the relationship between the main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that is performed at its branches.
- The operating budget of the non-main campus educational site for the current year and the two prior fiscal years.
- Consolidated financial statements for the prior two years showing a breakdown of the applicant's financial circumstances.